

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
JAMES RIST,
:

Plaintiff, :

-against- :

HSBC SECURITIES (USA), INC.,
:

Defendant. :
----- X

14-cv-6503 (ALC) (AJP)

**DECLARATION OF MARC A. SUSSWEIN IN OPPOSITION
TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Marc A. Susswein declares, pursuant to 28 U.S.C. §1746, under penalty of perjury, that the following is true and correct:

1. I am a partner in the law firm of Liddle & Robinson, L.L.P., 800 Third Avenue, New York, New York 10022. I am admitted to practice in the State of New York and this Court. I submit this declaration in support of Plaintiff James Rist’s Opposition to Defendant’s Motion for Summary Judgment in this action, dated July 17, 2015.

2. Attached as Exhibit 1 is a true and correct copy of Plaintiff’s offer letter from HSBC, dated April 29, 2010, and bearing Bates Numbers HSBCRIST000000025 – 30.

3. Attached as Exhibit 2 is a true and correct copy of the 2010 HSBC Year End Manager Review of James Rist, Discussion Date of January 28, 2011, and bearing Bates Numbers HSBCRIST000000003 – 5.

4. Attached as Exhibit 3 is a true and correct copy of the 2011 HSBC Mid Year Manager Review of James Rist, Discussion Date of August 9, 2011, and bearing Bates Numbers HSBCRIST000000128 – 131.

5. Attached as Exhibit 4 is a true and correct copy of a HSBC Global Equity-Sales Matrix PowerPoint presentation, dated September 2011, and bearing Bates Numbers HSBCRIST00028850 – 28890.

6. Attached as Exhibit 5 is a true and correct copy of an email from Rama Subramaniam to Charles Pizzimbono, dated December 6, 2011, and bearing Bates Numbers HSBCPIC-RIST00001092 – 1095.

7. Attached as Exhibit 6 is a true and correct copy of the 2011 HSBC Year End Manager Review of James Rist, Discussion Date of January 30, 2012, and bearing Bates Numbers HSBCRIST000000006 – 10.

8. Attached as Exhibit 7 is a true and correct copy of an email from Jason Henderson to Todd Fruhbeis, dated February 3, 2012, and bearing Bates Number HSBCRIST00005129.

9. Attached as Exhibit 8 is a true and correct copy of an email from James Rist to Jennifer Whang, dated April 9, 2012, and bearing Bates Number HSBCRIST00007933.

10. Attached as Exhibit 9 is a true and correct copy of an email from Jason Henderson to Carlos Pizzimbono, dated April 30, 2012, and bearing Bates Number HSBCRIST00009863.

11. Attached as Exhibit 10 is a true and correct copy of an email from Warren McCormick to Jennifer Whang, dated May 4, 2012, and bearing Bates Numbers HSBCRIST00005194 – 5195.

12. Attached as Exhibit 11 is a true and correct copy of an email from Warren McCormick to James Rist, dated May 23, 2012, and bearing Bates Number Rist001156.

13. Attached as Exhibit 12 is a true and correct copy of an email from Ellen Weiss to Jenny Kim Park and Jennifer Whang, dated May 24, 2012, and bearing Bates Number HSBCRIST00008055.

14. Attached as Exhibit 13 is a true and correct copy of a Written Warning to James Rist, dated June 11, 2012, and bearing Bates Number Rist001162.

15. Attached as Exhibit 14 is a true and correct copy of an email from James Rist to Todd Fruhbeis, Gabriella King, and Rob Domanko, dated June 29, 2012, and bearing Bates Number Rist001165.

16. Attached as Exhibit 15 is a true and correct copy of a Written Warning to James Rist commented on and signed by James Rist, dated June 11, 2012, and bearing Bates Number HSBCRIST00000138.

17. Attached as Exhibit 16 is a true and correct copy of an email from Simon J. Leonard to Warren McCormick, Jeannine Gramstad, and Virginia Maddock, dated June 7, 2012, and bearing Bates Number HSBCRIST00005199.

18. Attached as Exhibit 17 is a true and correct copy of an email from Jason Henderson to Warren McCormick, dated July 17, 2012, and bearing Bates Number HSBCRIST00005206.

19. Attached as Exhibit 18 is a true and correct copy of Discussion Notes with Eileen Hedges and Sue Jang, dated July 24, 2012, and bearing Bates Number HSBCPIC-RIST00002202.

20. Attached as Exhibit 19 is a true and correct copy of an email from Carlos Pizzimbono to Todd Fruhbeis, dated August 13, 2012, and bearing Bates Number HSBCRIST00005387.

21. Attached as Exhibit 20 is a true and correct copy of an email from Alexis Zafiridis to Allegra Kelly, Carlos Pizzimbono, Christophe Rivoire, Daniel Silber, Gregory Pierce, Jason Henderson, Olivier Rico, Otavio Mendes, Paul Voller, Suzy White, Andre Hubner, and Julio Cardenas, dated August 21, 2012, and bearing Bates Number HSBCRIST00025294.

22. Attached as Exhibit 21 is a true and correct copy of a Final Written Warning to Eileen Hedges, dated August 27, 2012, and bearing Bates Number HSBCPIC-RIST00002203.

23. Attached as Exhibit 22 is a true and correct copy of an email from Paul Busby to Nick Wood, Adam York, Theodore Langworthy, Warren McCormick, Stephane Chaboureau, Melvyn Ford, Paul Hamill, Chris Barrow, James Rist, Karl von Buren, Joshua Govender, and Lebogang Moropa, dated August 30, 2012, and bearing Bates Numbers HSBCRIST00003448 – 3449.

24. Attached as Exhibit 23 is a true and correct copy of the 2012 HSBC Mid Year Manager Review of James Rist, Discussion Date of August 30, 2013, and bearing Bates Numbers HSBCRIST00003232 – 3237.

25. Attached as Exhibit 24 is a true and correct copy of an email from Warren McCormick to James Rist, dated September 11, 2012, and bearing Bates Numbers HSBCRIST00028701 – 28702.

26. Attached as Exhibit 25 is a true and correct copy of an email from James Rist to Mary Bilbrey, dated October 15, 2012, and bearing Bates Numbers HSBCRIST00000254 – 257.

27. Attached as Exhibit 26 is a true and correct copy of an email from Daniel Dudek to Maria Malanga, dated October 26, 2012, and bearing Bates Number HSBCPIC-RIST00000583.

28. Attached as Exhibit 27 is a true and correct copy of an email from Warren McCormick to Jan Wysocki, dated November 5, 2012, and bearing Bates Numbers HSBCRIST00030276 – 30278.

29. Attached as Exhibit 28 is a true and correct copy of an email from Warren McCormick to James Rist, dated November 12, 2012, and bearing Bates Numbers HSBCRIST00030280 – 30282.

30. Attached as Exhibit 29 is a true and correct copy of an email from Jennifer Whang to Warren McCormick, Rob Domanko, and Todd Fruhbeis, dated January 3, 2013, and bearing Bates Numbers HSBCRIST00004835 – 4837.

31. Attached as Exhibit 30 is a true and correct copy of an email from Warren McCormick to Jennifer Whang, dated January 14, 2013, and bearing Bates Numbers HSBCRIST00008235 – 8236.

32. Attached as Exhibit 31 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Park, and Jennifer Whang, dated January 15, 2013, and bearing Bates Number HSBCRIST00003302.

33. Attached as Exhibit 32 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Park, and Jennifer Whang, dated January 15, 2013, and bearing Bates Numbers HSBCRIST00003303 – 3320.

34. Attached as Exhibit 33 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Park, and Jennifer Whang, dated January 15, 2013, and bearing Bates Numbers HSBCPIC-RIST00002331 – 2338.

35. Attached as Exhibit 34 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Park, and Jennifer Whang, dated January 15, 2013, and bearing Bates Numbers HSBCRIST00003300 – 3301.

36. Attached as Exhibit 35 is a true and correct copy of an email from James Rist to Tom O’Leary, dated February 14, 2013, and bearing Bates Numbers HSBCRIST00003334 – 3335.

37. Attached as Exhibit 36 is a true and correct copy of an email from Rob Domanko to James Rist, dated February 18, 2013, and bearing Bates Numbers HSBCRIST00028814 – 28825.

38. Attached as Exhibit 37 is a true and correct copy of an email from Theodore Langworthy to Long Wei Ling, dated January 29, 2013, and bearing Bates Numbers HSBCRIST00004897 – 4907.

39. Attached as Exhibit 38 is a true and correct copy of an email from Warren McCormick to Jennifer Whang, dated February 19, 2013, and bearing Bates Number HSBCRIST00005286.

40. Attached as Exhibit 39 is a true and correct copy of an email from Warren McCormick to Jennifer Whang, dated February 25, 2013, and bearing Bates Number HSBCRIST00008290.

41. Attached as Exhibit 40 is a true and correct copy of an email from Jennifer Whang to Warren McCormick, dated February 25, 2013, and bearing Bates Numbers HSBCRIST00005298 – 299.

42. Attached as Exhibit 41 is a true and correct copy of the 2012 HSBC Year End Manager Review of James Rist, Discussion Date of February 26, 2013, and bearing Bates Numbers HSBCRIST00000011 – 17.

43. Attached as Exhibit 42 is a true and correct copy of an email from Todd Fruhbeis to Warren McCormick and Tom O’Leary, dated March 13, 2013, and bearing Bates Numbers HSBCRIST00003651 – 3652.

44. Attached as Exhibit 43 is a true and correct copy of an email from Paul Busby to Paul Busby, dated March 15, 2013, and bearing Bates Number HSBCRIST00003648.

45. Attached as Exhibit 44 is a true and correct copy of an email from James Rist to Mary Bilbrey, dated April 5, 2013, and bearing Bates Numbers HSBCRIST00008616 – 8618.

46. Attached as Exhibit 45 is a true and correct copy of an email from Warren McCormick to Rob Domanko, dated April 12, 2013, and bearing Bates Numbers HSBCRIST00003727 – 3729.

47. Attached as Exhibit 46 is a true and correct copy of an email from James Rist to Tom O’Leary, dated April 10, 2013, and bearing Bates Numbers HSBCRIST00010358 – 10360.

48. Attached as Exhibit 47 is a true and correct copy of an email from James Rist to Mary Bilbrey, dated April 15, 2013, and bearing Bates Numbers HSBCRIST00008619 – 8622.

49. Attached as Exhibit 48 is a true and correct copy of an email from Rob Domanko to Todd Fruhbeis, Paul Busby, and Warren McCormick, dated April 23, 2013, and bearing Bates Number HSBCRIST00003708.

50. Attached as Exhibit 49 is a true and correct copy of an email from James Rist to Ann McGinley, dated May 7, 2013, and bearing Bates Numbers HSBCRIST00005318 – 5319.

51. Attached as Exhibit 50 is a true and correct copy of an email from Maria Malanga to Ann McGinley, dated May 14, 2013, and bearing Bates Numbers HSBCRIST00009873 – 9880.

52. Attached as Exhibit 51 is a true and correct copy of an email from Chris Barrow to James Rist and Paul Hamill, dated May 28, 2013, and bearing Bates Numbers HSBCRIST00029476 – 29484.

53. Attached as Exhibit 52 is a true and correct copy of an email from Ellen Weiss to Ann McGinley, dated May 29, 2013, and bearing Bates Numbers HSBCRIST00007853 – 7854.

54. Attached as Exhibit 53 is a true and correct copy of an email from Todd Fruhbeis to Rob Domanko, Warren McCormick, and Paul Busby, dated June 3, 2013, and bearing Bates Numbers HSBCRIST00003784 – 3785.

55. Attached as Exhibit 54 is a true and correct copy of an email from Maria Malanga to Ann McGinley, dated June 3, 2013, and bearing Bates Numbers HSBCRIST00010240 – 10248.

56. Attached as Exhibit 55 is a true and correct copy of an email from Rob Domanko to James Rist, dated May 6, 2013, and bearing Bates Number HSBCRIST00005470.

57. Attached as Exhibit 56 is a true and correct copy of an email from Ellen Weiss to Ann McGinely, dated June 6, 2013, and bearing Bates Numbers HSBKRIST00005312 – 5314.

58. Attached as Exhibit 57 is a true and correct copy of an email from Paul Busby to James Rist, dated June 20, 2013, and bearing Bates Numbers HSBCRIST00028946 – 28950.

59. Attached as Exhibit 58 is a true and correct copy of an email from James Rist to Ann McGinley and Mary Bilbrey, dated June 27, 2013, and bearing Bates Numbers HSBCRIST00003408 – 3411.

60. Attached as Exhibit 59 is a true and correct copy of an email from Tom O’Leary to Ellen Weiss, dated July 23, 2013, and bearing Bates Numbers HSBCRIST00010374 – 10376.

61. Attached as Exhibit 60 is a true and correct copy of an email from James Rist to Ann McGinley and Mary Bilbrey, dated July 25, 2015, and bearing Bates Numbers HSBCRIST00005372 – 5376.

63. Attached as Exhibit 62 is a true and correct copy of Plaintiff James Rist's Charge of Discrimination with the Equal Employment Opportunity Commission, dated August 8, 2013, and bearing Bates Numbers Rist 001593 – 1608.

64. Attached as Exhibit 63 is a true and correct copy of an email from James Rist to Jennifer Whang, Ellen Weiss, and Mary Bilbrey, dated September 27, 2013, and bearing Bates Number HSBCRIST00003169.

65. Attached as Exhibit 64 is a true and correct copy of the Equity Finance Client Coverage chart, dated October 2013, and bearing Bates Number Rist 001747.

66. Attached as Exhibit 65 is a true and correct copy of an email from James Rist to Todd Fruhbeis, David Garcia, and Rob Domanko, dated October 4, 2013, and bearing Bates Numbers Rist002834 – 2841.

67. Attached as Exhibit 66 is a true and correct copy of James Rist's 2013 Mid Year performance review, Discussion Date of September 20, 2013, and bearing Bates Numbers HSBCRIST00000132 – 137.

68. Attached as Exhibit 67 is a true and correct copy of an email from Todd Fruhbeis to Paul Busby, dated November 8, 2013, and bearing Bates Numbers HSBCRIST00003861 – 3862.

69. Attached as Exhibit 68 is a true and correct copy of an email from James Rist to Ann McGinley, dated January 16, 2014, and bearing Bates Numbers HSBCRIST00025754 – 25759.

70. Attached as Exhibit 69 is a true and correct copy of an email from James Rist to Carey Chamberlain and Adam Weberman, Paul Busby and Ann McGinley, dated February 11, 2014, and bearing Bates Number HSBCRIST00024205.

71. Attached as Exhibit 70 is a true and correct copy of James Rist's 2013/2014 Pay Review Statement, dated February 18, 2014, and bearing Bates Number HSBCRIST00003212-3213.

72. Attached as Exhibit 71 is a true and correct copy of an email from James Rist to Ann McGinley, Mary Bilbrey, dated February 25, 2014, and bearing Bates Number Rist002856.

73. Attached as Exhibit 72 is a true and correct copy of an email from James Rist to Ann McGinley, Mary Bilbrey, dated February 25, 2014, and bearing Bates Number HSBCRIST00010291 – 10292.

74. Attached as Exhibit 73 is a true and correct copy of an email from James Rist to Ann McGinley, dated February 25, 2014, and bearing Bates Number HSBCRIST00010290.

75. Attached as Exhibit 74 is a true and correct copy of an email from James Rist to Ann McGinley, dated March 4, 2014, and bearing Bates Numbers HSBCRIST00005587 – 5589.

76. Attached as Exhibit 75 is a true and correct copy of an email from James Rist to Ann McGinley, dated April 1, 2014, and bearing Bates Numbers HSBCRIST00002367 – 2373.

77. Attached as Exhibit 76 is a true and correct copy of an email from Ann McGinley to Mary Bilbrey, dated May 13, 2014, and bearing Bates Number HSBCRIST00003199-3200

78. Attached as Exhibit 77 is a true and correct copy of an email from James Rist to Mary Bilbrey and Ann McGinley, dated May 13, 2014, and bearing Bates Number HSBCPIC-RIST00000571.

79. Attached as Exhibit 78 is a true and correct copy of HSBC's Anti-Harassment Policy, dated January 15, 2015, and bearing Bates Numbers HSBCPIC-RIST00000008 – 12.

80. Attached as Exhibit 79 is a true and correct copy of James Rist's 2011/2012 Pay Review Statement, dated February 2012, and bearing Bates Numbers HSBCRIST00003208 – 3209.

81. Attached as Exhibit 80 are true and correct copies of HSBC's organizational charts, dated March 2013, and bearing Bates Numbers HSBCPIC-RIST00000556 – 562.

82. Attached as Exhibit 81 is a true and correct copy of an HSBC organizational chart, dated March 2013, and bearing Bates Number HSBCPIC-RIST00000537.

83. Attached as Exhibit 82 are true and correct copies of HSBC organizational charts, dated March 2013, and bearing Bates Numbers HSBCPIC-RIST00000538 – 546.

84. Attached as Exhibit 83 are true and correct copies of HSBC organizational charts, dated August 2012, and bearing Bates Numbers HSBCPIC-RIST00000547 – 555.

85. Attached as Exhibit 84 is a true and correct copy of an HSBC Employee Briefing Guide bearing Bates Number HSBCRIST00030302-30303.

86. Attached as Exhibit 85 is a true and correct copy of James Rist's Year End 2013 Performance Review, Discussion Date of February 24, 2014, bearing Bates Numbers HSBCRIST00000018 – 24.

87. Attached as Exhibit 86 is a true and correct copy of James Rist's rebuttal to his performance review, bearing Bates Number HSBCRIST00003170 – 3173.

88. Attached as Exhibit 87 is a true and correct copy of James Rist's 2012/2013 Pay Review Statement bearing Bates Numbers HSBCRIST00003210 – 3211.

89. Attached as Exhibit 88 is a true and correct copy of James Rist's Statement of Pay Review for 2010 bearing Bates Numbers HSBCRIST00003206 – 3207.

90. Attached as Exhibit 89 is a true and correct copy of meeting notes from the June 28th meeting between Eileen Hedges and Jennifer Whang bearing Bates Numbers HSBCPIC-RIST00002204 – 2206.

■ [REDACTED]

[REDACTED]

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92. Attached as Exhibit 91 is a true and correct copy of the Record of Investigation of James Rist, dated January 28, 2014, and bearing Bates Numbers HSBCRIST00003219-3221

93. Attached as Exhibit 92 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Kim Park, and Jennifer Whang, dated January 15, 2013, and bearing Bates Number HSBCRIST00003297.

94. Attached as Exhibit 93 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Kim Park, and Jennifer Whang, dated January 15, 2013, and bearing Bates Number HSBCRIST3254.

95. Attached as Exhibit 94 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Kim Park, an Jennifer Whang, dated January 15, 2013 and bearing Bates Numbers HSBCRIST00003259 – 3260.

96. Attached as Exhibit 95 is a true and correct copy of an email from Rob Domanko to Ellen Weiss, Jenny Kim Park, and Jennifer Whang, dated January 15, 2013, and bearing Bates Numbers HSBCRIST00003257-3258

97. Attached as Exhibit 96 is a true and correct copy of an email from Jennifer Whang to Warren McCormick, dated January 15, 2013, and bearing Bates Numbers HSBCRIST00008239 – 8240.

98. Attached as Exhibit 97 is a true and correct copy of relevant excerpts of the deposition transcript of James Rist, dated May 14, 2015.

99. Attached as Exhibit 98 is a true and correct copy of relevant excerpts of the deposition transcript of Robert Domanko, dated May 12, 2015.

100. Attached as Exhibit 99 is a true and correct copy of relevant excerpts of the deposition transcript of Warren McCormick, dated April 30, 2015.

101. Attached as Exhibit 100 is a true and correct copy of relevant excerpts of the deposition transcript of Todd Fruhbeis, dated April 24, 2015.

102. Attached as Exhibit 101 is a true and correct copy of relevant excerpts of the deposition transcript of Jennifer Whang, dated April 24, 2015.

103. Attached as Exhibit 102 is a true and correct copy of an email from Maria Malanga to Ann McGinley, dated May 14, 2013, and bearing Bates Number HSBCRIST000010241.

104. Attached as Exhibit 103 is a true and correct copy of relevant excerpts of the deposition transcript of Ellen Weiss, dated May 11, 2015.

105. Attached as Exhibit 104 is a true and correct copy of an email from Jennifer Whang to Warren McCormick, dated January 3, 2013, and bearing Bates Stamp Number HSBCRIST00004835 – 4837.

106. Attached as Exhibit 105 is a true and correct copy of an email from Warren McCormick to Jennifer Whang, dated January 11, 2013, and bearing Bates Stamp Number HSBCRIST00008141.

107. Attached as Exhibit 106 is a true and correct copy of an email from James Rist to Tom O’Leary, dated February 14, 2013, and bearing Bates Stamp Number Rist001248.

108. Attached as Exhibit 107 is a true and correct copy of an email from Warren McCormick to Margaret Murray, Paul Busby, and James Rist, dated July 20, 2012, and bearing Bates Numbers Rist 001172 – 73.

109. Attached as Exhibit 108 is a true and correct copy of an email from James Rist to Warren McCormick, dated November 28, 2012, and bearing Bates Number HSBCRIST00023114.

110. Attached as Exhibit 109 is a true and correct copy of an email from Duncan Edward to Craig Laird and James Rist, dated October 1, 2013 and bearing Bate Numbers HSBCRIST00014948 – 14950.

111. Attached as Exhibit 110 is a true and correct copy of an email from James Rist to Paul Hamill, dated October 10, 2013, and bearing Bates Number HSBCRIST00028014.

112. Attached as Exhibit 111 is a true and correct copy of an email from Paul Hamill to James Rist, dated May 26, 2012, and bearing Bates Number Rist001158.

113. Attached as Exhibit 112 is a true and correct copy of an email from Hugh Evans to James Rist, dated May 1, 2013, and bearing Bates Numbers HSBCRIST00003742 – 3744.

114. Attached as Exhibit 113 is a true and correct copy of an email from Andre Hubner to Delfos Machado and James Rist, dated April 26, 2013, and bearing Bates Numbers HSBCRIST00025065 – 25066.

115. Attached as Exhibit 114 is a true and correct copy of an email from Warren McCormick to James Rist, dated October 9, 2012, and bearing Bates Number HSBCRIST00003912.

116. Attached as Exhibit 115 is a true and correct copy of an email from Carey Chamberlain to James Rist, dated October 11, 2012, and bearing Bates Number HSBCRIST00025486.

117. Attached as Exhibit 116 is a true and correct copy of an email from Gabriella King to Patrick Brady, Tom O’Leary, and James Rist, dated October 3, 2012, and bearing Bates Numbers HSBCRIST00007787 – 7788.

118. Attached as Exhibit 117 is a true and correct copy of an email from James Rist to Todd Fruhbeis, dated July 18, 2012 and bearing Bates Numbers Rist001168-1169.

119. Attached as Exhibit 118 is a true and correct copy of Rist's Performance Improvement Plan, Discussion Date of May 2, 2014, bearing Bates Numbers HSBCRIST00003402 – 3404.

120. Attached as Exhibit 119 is a true and correct copy of the Declaration of Michael Picarella dated July 16, 2015.

Dated: New York, New York
July 17, 2015

/s/ Marc A. Susswein
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